

A G E N D A
CITY-COUNTY COMMON MEETING
Monday, March 1, 2004 - 8:30 a.m.
County-City Building, Room 113

- I. MINUTES** - Common Meeting on February 3, 2004
- II. 8:30 a.m. RURAL ACREAGE STUDIES PRESENTATION (BUILD-THROUGH AND PERFORMANCE STANDARDS)** - Marvin Krout, Planning Director; Mike DeKalb, Planner
- III. ADJOURNMENT**

MINUTES
CITY-COUNTY COMMON
Monday, March 1, 2004 – 8:30 a.m.
County-City Building, Room 113

County Commissioners Present: Bernie Heier and Ray Stevens

Absent: Larry Hudkins, Deb Schorr and Bob Workman

City Council Members Present: Jon Camp, Jonathan Cook, Glenn Friendt, Annette McRoy, Patte Newman, Ken Svoboda and Terry Werner

Planning Commission Members Present: Jon Carlson, Gene Carroll, Gerry Krieser, Dan Marvin, Mary Bills Strand, Lynn Sunderman and Tommy Taylor

Others Present: Mayor Coleen Seng; Kerry Eagan and Gwen Thorpe, County Board Office; Marvin Krout, Mike DeKalb and Kent Morgan, Planning Department; Roger Figard, Public Works; Larry Worrell, County Engineer's Office; Gary Bergman, County Extension; Joe Hampton, LIBA; Greg Wood, E&A Consulting Group; Nate Jenkins, Lincoln Journal-Star; Merle Jahde, General Public; and Cori Beattie, County Board Secretary

MINUTES

Heier moved approval of the minutes from the February 3, 2004 Common meeting; seconded by Friendt. Roll call vote. Ayes: Seng, Camp, Friendt, Heier, McRoy, Newman, Stevens, Svoboda and Werner. Nays: None. Motion passed 9-0. (Cook absent for vote.)

RURAL ACREAGE STUDIES PRESENTATION (BUILD-THROUGH AND PERFORMANCE STANDARDS)

Staff distributed a summary sheet. **(See Exhibit A.)**

Mr. Cook arrived at 8:37 a.m.

Krout said three studies were previously directed by the Comprehensive Plan - Cost of Rural Services, Performance Based Standards and Build-Throughs. Staff finished the studies last fall, although, some fine-tuning may be necessary. He sought consensus from officials with regard to the direction of these policies.

Ms. Bills Strand arrived at 8:40 a.m.

Cost of Rural Services Study

Krout noted this concept would affect the County directly as it would require County budget dollars. A draft report was released in September. Feedback was then received from the County Engineer with the final report provided to the County Board in December. The study looked at whether uses in the County, particularly new construction on acreage lots, paid for themselves. It concluded that only agricultural uses did so. Based on calculations

and assumptions, consultants concluded a large portion of taxes collected from Lincoln residents is used to help support such things as roads, public works and sheriff services, in unincorporated areas of the County. Krout added the County Engineer objected to some of the assumptions regarding how the traffic generation was calculated and who benefitted from County roads and to what extent. The consultants reworked the numbers and basically came up with similar conclusions.

On a related note, County impact fees were questioned. The study indicated impact fees could be justified up to \$7,000 per new acreage unit. The amount would represent the unpaid contribution toward capital improvements which acreages are not currently paying through taxes.

Krout said approximately a year ago, the County Board asked that a Comprehensive Plan Amendment be drafted which would delete language on impact fees. The Planning Commission voted to table this item since the study was expected to be finished within a few months. Last December the County Board removed the Amendment from pending as the study was concluded. Krout figured the County Board did so because they felt impact fees did not need to be considered. A request was made to place the Amendment back on the Planning Commission's agenda for this Wednesday (March 3), after which it would be forwarded to the City Council and County Board for consideration. Krout said staff recommends holding off on this item pending a decision on impact fee legality.

The Cost of Rural Services concept has to do with how the County Board might reduce costs or add to revenues to help deal with the improvements/developments imbalance. Krout said one suggestion was to lower densities with the idea that doing so would require less road improvements. Since staff did not see any such direction in the Comprehensive Plan, they did not recommend pursuing this idea. He noted paving requirements are currently at only 400 cars per day, which becomes very expensive on a per-car basis. Moreover, it costs twice as much to maintain a road once it has been paved.

In summary, Krout said the Cost of Rural Services Study recommended to guide future acreage lots to existing paved roads, thus, taking advantage of existing services. It was also noted that it might be wise to rethink the policies of when and where to pave additional roads, especially low-volume ones along the perimeter of the County which may simply encourage more acreage development or benefit commuters from outside Lancaster County.

Krout said the Mayor has formed a new committee to review infrastructure. With the County's involvement, the hope is to find an equitable way to shift road priorities to the City's edge where most growth is occurring. He noted the County's ongoing support of this cause, but added there are probably other ways and places road improvements could happen.

Heier asked whether the County Engineer's office had any comment. Worrell indicated County Engineer Don Thomas should visit with officials.

Performance Based Standards

Krout said this concept primarily affects land in the County's jurisdiction. This was an in-house study by Planning staff. It looked at the supply of land and how it is defined in

today's Comprehensive Plan. There are roughly 5,000 acreage lots in Lancaster County. Some are already zoned and developed; others are located near small communities within the County. Krout said AGR zoning allows for acreages. An entire tract can be developed with a density of one unit per three acres. AG land allows one lot per 20 acres with opportunities to cluster development.

Current acreage demand is between 100-150 new lots per year with most being met through Community Unit Plans (C.U.P.) on AG land. To clarify, instead of having four 20-acre lots on 80 acres, there would be four 3-acre lots in one corner of the tract and the remainder is left in open space. Staff feels it is preferable to encourage C.U.P.s as the predominant pattern for future development in the County because they preserve open space, spread out density and are more equitable as everyone in the County has the right to do a cluster development.

Krout said farmers from the northern part of the County who did not score well with the Performance Standards system felt it was not fair. Scoring was based on factors such as proximity to roads or environmentally sensitive areas. And while there are always winners and losers with any type of scoring system, Krout felt the County can operate on an equitable basis by using this tool. Re-zoning land to AGR to allow an entire tract to have 3-acre lots should be used only in rare occurrences, especially within the City's three-mile zoning jurisdiction, but even outside this area since landowners can do cluster developments via C.U.P. It was noted the threshold for the scoring system was 300 points. If attained, it is presumed the entire tract could be developed with one lot per three acres. Otherwise, the cluster development provision could apply. In addition, enhancements were provided with the AGR system, bonuses were given if environmental resources were preserved and people would have the opportunity to transfer density rights.

Krout referenced a recent situation before the County Board with property at 68th & Roca Road. During discussions, the Board wondered if the scoring system was a good idea. He stressed the system is simply a guide as unique situations will always occur. Even though this particular site scored well below 300 points, Commissioners voted for approval. Krout noted the criteria for the scoring system could be altered to increase the threshold but doing so could also increase the amount of AGR land available. Staff feels decision makers should rely more on the existing system versus fine-tuning the AGR cluster system.

In reference to the 68th & Roca Road issue, Cook said he watched the County Board's discussion but couldn't remember if staff was asked to comment on the scoring system or the motion. He said he was concerned about the conditional zoning, especially how it will work and how it will be tracked. Krout said staff was not asked to participate in that discussion. The conditional zoning stemmed from a prior discussion with the Board in which staff pointed out if property is zoned AGR and a plat approved, the property owner could divide a six-acre tract into two 3-acre tracts as long as the administrative rules are met.

Krout referenced a 1991 County Attorney legal opinion on conditional zoning. He added there is a limited place for it as the City has also discussed this type of zoning which is really just an extension of other existing policies such as special permits, C.U.P.s, etc. The difference is under conditional zoning, a tool is used other than those in existing zoning ordinances. Conditional zoning is being looked at as a way to replace use permits in the City's zoning district, although, it would be difficult for Planning and Building and Safety to track these cases. Krout said conditional zoning is a potential tool but it ought to be carefully considered and placed into the ordinance. Carlson questioned whether conditional

zoning would counter the concept of “fairness and equality throughout the County” if different sets of conditions for different pieces of land would be allowed. Krout said every piece of land is different. On the City side, a neighborhood car dealership may need to do some special things with lighting or buffers in order to make it a compatible use. There are situations that need flexibility but the key is to not overuse or misuse conditional zoning.

Mr. Taylor arrived at 9:10 a.m.

Stevens said the attorney opinion stated the County Board did have the ability to do conditional zoning. He explained that two items came before the Board with regard to 68th & Roca Road - a change of zone and a preliminary plat. Once the zoning was changed to AGR, the developer could build 32 residences on the property, although, he only asked for 15. The conditional zoning was an attempt by the Board to prevent more houses from being built. Krout said this situation, whereby the Board approved the lower density, makes staff think that altering the C.U.P. provisions may be a good idea.

Cook felt conditional zoning is fraught with danger unless it is very carefully thought out. He felt mechanisms are already in place to track conditions in certain zones. He added conditional zoning seems to run counter to the streamlining efforts going on, for example, the City's discussion on eliminating/combining a number of commercial zones for simplicity. He said the entire process would become extremely complicated.

Friendt questioned how the point system worked. DeKalb said scores were run on pending developments. They scored between -285 and +49. Factors contributing to the low scores were reviewed. When discussing the system with the County Board, it seemed that if they decided to proceed, the scoring piece should be reassessed. Staff asked for guidance on any potential adjustments to the system.

Camp applauded the Planning Department for its administrative oversight. He said officials obviously do not want to move forward with something which will cause nightmares for staff and the development community in the future.

Carlson said he would be interested in seeing scores on existing acreages. Krout said existing AGR zoned acreages would likely score well since most have paved roads and other acreages in close proximity.

Build-Through Acreages

Krout said staff is farthest along with this concept. It primarily affects land within the City's three-mile zoning jurisdiction. A handout on build through acreages was distributed. **(See Exhibit B.)** The draft report was finished in September and supplemental information continues to be provided. A resource committee was formed to review the issue. The City Attorney has reviewed the proposed package and initially detected no fatal flaws but will likely need to take a closer look if amendments are brought forward.

The idea behind build-throughs is, as proposed, all development in future urban growth tiers, whether zoned AG or AGR, would have to meet build-through standards unless it is zoned AGR and already platted. If land is zoned AG and left that way, acreage lots are permitted on 10-20% of the total property with the remainder platted as an “outlot” and reserved for future development when urban services are available. Lots are designed to

be easily subdivided into 3 or 4 smaller lots when the property is annexed. The entire property is master planned to take into consideration the major road, drainage and utility systems that will ultimately be needed and how the acreage lot area will fit into that system. If land is zoned AGR but not platted, the lots will be required to meet the same standards, except that the entire property may be subdivided into 3-acre lots (or cluster development with 1-acre lots).

Krout said the results of an initial test concluded build-throughs are a workable concept. It will cost developers more for initial grading and road system design to facilitate future subdivision. Future increased density may also turn away some potential lot buyers.

Camp asked if a mechanism is in place which will force 20-acre plots to be subdivided in the future. Krout said this issue was discussed. Once 3-acre lots are annexed, they should immediately get water service and fire hydrants from the City. It's likely some acreage owners won't want the expense of these services but the City has the right to order in water at any time. Staff recommends water and fire hydrants for public safety be required at annexation. Sewer and roads could probably be done on a petition basis. Camp said some owners will always want the "rural" environment. He would rather the government not say certain things have to be done, while at the same time promoting development. He added flexibility should be allowed, but if owners want open space they will have to pay for it. Krout said staff is looking for that balance. Democracy eventually comes into play if the majority of property owners come forth with a petition for improvements.

Cook said annexation seems to be the biggest concern of people living in acreage developments. Krout noted there is no perfect solution as people have the right to build at least one lot per 20 acres. Cook said he didn't want to spend years developing a complicated build-through acreage scheme and then find it is hard to make these conversions work. The choice maybe should be to not build acreage developments near the City. Krout said this is a possibility, although, if there is a marketplace for acreages it will find itself some place. Staff would rather the County not get very liberal about acreages and use the fact that the City won't allow them anywhere as an excuse. Bills Strand said there was discussion on allowing annexed acreage owners to pay for assessments over time. It was noted that there are currently no procedures in place to allow for such a thing.

Werner asked if potential buyers are notified up-front about future annexation. Krout said the initial subdivider will sign a document agreeing to annexation when eligible and to not protest. This document will go with the land and be identified to buyers at closing time. It was noted the document will clearly reference urban standards and that the owner will be responsible for payment. Bills Strand explained that a seller's disclosure of property is required and it does ask if deed restrictions exist. Werner then questioned whether the developer would have any future obligations. DeKalb said the original developer may be exempt. But, if a different person does a cluster or build-through, they would be required to help pay for the conversion.

Cook noted some developments will be far enough outside the City that they won't be addressed for many years. He asked if the County's policy became more restrictive with far fewer acreages approved in the future, would a concern be that doing so would drive acreage owners out of Lancaster County? Krout said the first study shows each additional acreage lot is a financial drain on the County. If people move outside Lancaster County, it might stabilize the land prices in some of the areas, thereby, making it easier for people to purchase land for farming. He added construction outside of Lancaster County may have a

negative effect on Lincoln, depending on the County's policies. For example, if the County builds five miles of roads to move people through Lancaster County to Lincoln, this could have a \$1.5 million impact on the road system. Krout felt it was reasonable to force acreage owners to go out a mile or two out of their way to access an existing paved road.

Friendt said it would give him great comfort to know the purchase of property is air tight for subsequent buyers because it seems the newest owners are the ones surprised by annexation. He thanked staff for their efforts on these studies.

Carlson said he is concerned about the package since it seems two of the policies will be increasing costs and the third will drive down the ability to pay. Krout noted the Comprehensive Plan states a variety of lifestyles should be provided, including six percent of the growth maintained for acreages at the current level (equivalent to 100 lots per year). Carlson questioned "accommodating lifestyle" versus "subsidized lifestyle." Krout stated this is already being done, thus, perhaps the question be, "Should we do it anymore?" The more serious issue is being able to maintain the ability to develop the infrastructure for expansion along the City limits.

Newman asked the County Board why they wanted to delete impact fees. Heier deferred comment. Stevens said the issue was discussed and the majority of the Board felt there was no need for impact fees at this time. Moreover, some Commissioners did not feel the \$6.6 million net annual transfer from the municipal taxpayers to the County was a valid number. It was noted the County Engineer provided written comments which indicated he felt the same way. Stevens indicated it might be interesting to do a review on some of the roads being subsidized by the City in terms of where vehicles are coming from and what they are doing, i.e., driving to recreation areas in the County. He added Commissioners feel taxes on a \$350,000 home in the County are sufficient to cover the cost of services.

Cook said it sounded like the County Board is saying they not only think the \$6.6 million number is wrong, but that it might actually be zero, thus, eliminating the possibility of considering impact fees. Stevens said the Board is not convinced an impact fee is the proper way of assessing the cost of rural services.

Werner questioned the comment made by Stevens that the County Board didn't believe the study and that they feel million-dollar homes are paying for themselves. Stevens said the Board has questions about the study, not that they do not believe it. Werner stated the study shows million-dollar homes are NOT paying for themselves. So unless the Board has better data to present, he did not know how they couldn't believe it.

Friendt hoped this issue could be further discussed in this venue. Experts have presented the rationale of the study but he would like to see both sides (the City and County) represented at a meeting where these questions can be asked and discussed. It has been said that 90% of taxpayers in the County are subsidizing another portion of taxpayers. He would like the hard data presented together. Newman said this was a great point and she appreciated Heier wanting the County Engineer present as well.

Marvin said someone should look at a study which raises the trip counts for road paving. He also mentioned the difference in cost of purchasing right-of-way in the City versus the County. Ways of offsetting these costs should be explored.

FUTURE MEETING DATE

Newman asked if these items should be carried over to next month's meeting so others pertinent to the discussion can be present. Krout said that would be fine. It was noted that, ultimately, the City Council has the call on the build-through concept and whether or not it is ready to have a public hearing. The County needs to decide if and how to use the performance scoring system. Seng said there seems to be a desire to have another meeting and staff from the various departments should attend. Cook said he would like to see written responses from those who worked on the studies regarding the issues raised by Commissioner Stevens a few moments ago dealing with traffic patterns on paved County roads and whether taxes on higher-end properties in the County actually pay for services.

Svoboda thought a public hearing should be held on the preliminary findings as this venue does not allow testimony from the development community or others. DeKalb said an open house on these studies was held at the Lower Platte South Natural Resources District last November. Discussion also took place with the Common in December and today. Camp said today's discussion was good but he would like it to focus on a few points, one being the \$6.6 million figure, so officials better understand the assumptions from which it was derived. He agreed that it would be nice to also hear from the public. Friendt noted there will be plenty of opportunity for additional public input. He would rather hear additional expert testimony which will hopefully allow officials to assess the validity of the data.

DeKalb asked that the following points be kept in mind:

1. Cost of Service Study - After the consultant crunched the numbers, some of the issues had questions but the City and County do not have the ability to follow up because, for example, there is no county transportation model which details where traffic is coming from/going to and what roads are being used accordingly. In addition, there is the pending court case on impact fees. Discussion on costs should continue but a critical short-range decision is not necessary.
2. Performance Standards - Guidance is needed on whether or not to use it and, if so, what needs to be reviewed.
3. Build-Through Acreages - Staff feels this is reasonably close to completion, although, a few issues must still be addressed.

It was decided to continue discussion at the April 5th Common meeting with the studies being the only items on the agenda. Newman said other related issues for the April agenda can be forwarded to Cori in the County Board office. Stevens said the Planning Commission may also want to attend the April meeting. Bills Strand said it would be helpful to hear this discussion prior to public testimony. Newman welcomed their attendance.

There being no further business, the meeting adjourned at 10:05 a.m.

Submitted by,

Cori R. Beattie
County Board Secretary